1941

File No. B Finance/41

Legal DEPARTMENT

B BRANCH

Subject:-

Governors Bill No V of 1941,

A Bill to amend the

Bombay Finance Act 1932

(Amendt of s.s. 2, 15, 18, 22, 27

and insertion of new sec 28A)

File No. B. Finance/41

Std. Sectt. Slip. 21 A

247-B.

C O N T E N T S.

Legal Department File No. B.Finance/41.

S.No.	Compilation No.	Subject	Pages
		Bill to amend Bombay Finance Act, 1932.	
1.	R.I.No.10366 EC-II-40	Stamp Act - Article 58 in Schedule Duty under ----	1.
2.	Advocate General's Opinion - No.40 dated 8/12/1940.	Approving draft bill	11.
3.	G.No. 97 Genl. 20 - 2 - 41.	Vires by the Bill.	15.
4.	Advocate General's opinion.	Approving draft of bill	17.
5.	G.No. 3351. 15/3/41.	Letter to Governor for assent....	21-23.
6.	G.R.I.P.No.2747. 26/3/1941.	G.P. for publication in the Bombay Government Gazette.	25.
7.		Government of India Act, sec.32(1) ---- Notification under	27.

M.V.V.
26/4.

VM 28/4

SMD.
27/4

Office of the R.L.A.

It is held that in case of instruments of settlement which contain a power of revocation the duty payable under Article 58 in Schedule I of the Indian Stamp Act is to be calculated with reference to the value of the subject matter of the settlement as set forth in the settlement and not with reference to the value of the whole property to which the settlement relates. It is proposed to amend this Article so as to make the duty calculable with reference to the market value of the whole property and not that of the subject matter of settlement as set forth in the settlement as set forth in the settlement.

2. The requisite draft Bill is appended for this purpose. Clause 3 of the draft Bill provides for amendment of Article 58 as it applies to places other than those to which Part V of the Bombay Finance Act applies. Clause 4 provides for amendment of the Article as in force in the ~~xxxxx~~ cities to which Part V of the Bombay Finance Act applies.

3. As the question is important the Advocate General is requested kindly to approve the Bill.

Sd.
25/11.

Remembrancer of Legal Affairs.

U.R. to the Advocate General No. 10366, dated 25th. November 1940.

M.V.V.
26/4.

Governor's Bill No. of 1941.

A Bill to amend the Bombay Finance Act, 1932.

Whereas it is expedient to amend the Bombay Finance Act, 1932, for the purpose herein after appearing.

And Whereas the Governor of Bombay has assumed to himself under the ~~x~~ Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo., c.2.

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:-

Short title and commencement.

1. (1) This Act may be called the Bombay Finance (Amendment) Act, 1941.

(2) It shall come into force on 31st. March 1941.

M.V.V.
26/4.

Amendment of section 3 of Bom. II of 1932.

2. In sub-section (3) of section 3 of the Bombay Finance Act, 1932 (Bom. II of 1932), hereinafter called "the said Act"), for the word "nine" the word "ten" shall be substituted.

M. V. V.
26/4.

Amendment of section 15 of Bom.II of 1932.

3. In sub-section (5) of section 15 of the said Act, after clause (f), the following new clause shall be added, namely:-

"(g) in the entry in column 2 of article 58,-

(i) the words "as set forth in such settlement" shall be deleted; and

(ii) after the words 'eight annas' the following shall be inserted, namely:-

'Provided further that where an instrument of settlement contains a power to revoke the settlement by the settlor, the amount or value of the property settled shall, for the purposes of duty, be determined as if no such power were contained in the instrument.

M.V.V.
26/4.

Amendment of section 18 of Bom. II of 1938.

4. In section 18 of the said Act, in the entry, in column 2 of article 58,-

(i) the words "as set forth in ...h settlement" wherever they occur shall be deleted; and

(ii) after the words "shall not exceed one rupee" the following shall be inserted, namely:-

"Provided further that where an instrument of settlement contains a power to revoke the settlement by the settlor, the amount or value of the property settled shall, for the purposes of duty, be determined as if no such power were contained in the instrument."

M.V.V.
26/4.

No.40 of 1940.

I approve of the dreft Bill.

The omission of the words"asset forth in such settlement" will enable the Revenue Authority to ascertain the real value of the property and he will not be bound by the value as set forth in the instrument as laid down in the cases in 8 Mad. 453; and, 44 All. 339.

The proviso is adequate to get rid of the difficulty created by the decision in 1930 A.C. 339 in cases of , settlements containing a power of revocation by the settlor.

Sd/-

Advocate General.
2.12.40.

M.V.V.
26/4.

Office of the R. L. A.

It is held that in case of instruments of settlement
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2. The requisite draft Bill is appended for this purpose. Clause 3 of the draft Bill provides for amendmen of Article 58 as it applies to places other than those to which Part V of the Bombay Finance Act applies. Clause 4 provides for amendment of the Article as in force in the cities to which Part V of the Bombay Finance Act applies.

3. The subject matter of the bill falls under entry 18 of List III in the 7th Schedule to the Government of India Act. As the provisions of the Bill are repugnant to the provisions of the Indian Stamp Act, 1899, which is an existing Indian Law the Bill will have to be reserved for the consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act, 1935.

4. The Advocate General who was consulted has approved the Bill.

Sd/-
4/12.
Remembrancer of Legal Affai...

U.R. to F.D. No. 10680, dated the 5th December 1940.

M.V.V.
26/4.

Office of the R.L.A.

The requisite draft consolidated Bill is appended.

2. The subject matter of clause 2 of the Bill would fall under entries Nos. 1, 42, 48B and 51 in List II and entries Nos. 13 and 31 in List III in the Seventh Schedule to the Government of India Act, 1935. Clauses 3 and 4 would fall under entry No. 51 in List II and entry No. 13 in List III. The subject-matter of Part IV of the Bombay Finance Act, 1932, falls, inter alia, under entry No. 13 of List III of the Government of India Act, 1935. It contains provisions which are repugnant to the Indian Stamp Act, 1899, which is an existing Indian law relating to this entry. The provisions of clause 2 of the Bill in-as-much as they provide for continuance of these provisions in Part IV of the Bombay Finance Act, 1932, by one more year from 31st March 1941, and the provisions of clauses 3 and 4 of the Bill in-as-much as they provide for amendments of the Indian Stamp Act, 1899, are repugnant to the provisions of the said existing Indian law. The Bill will have, therefore, to be reserved for the consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act, 1935.

3. As the Bill is important the Advocate General is requested kindly to approve it.

Sd./-

Remembrancer of Legal Affairs.

U.R. to the Advocate General, Bombay, No. 87-Confl. dated 20th February 1941.

M.V.V.
26/4.

I approve of the revised draft of the Bill.

I agree with paragraph 3 of the note of the R.L.A. dated the 20th of February 1941.

Sd/-

Advocate General.
1/3/41.

M.V.V.
26/4.

Office of the R. L. A.

The requisite draft consolidated Bill is appended.

2. The subject-matter of clause 2 of the Bill would fall under entries Nos. 1, 42, 48B and 51 in List II and entries Nos. 13 and 31 in List III in the Seventh Schedule to the Government of India Act, 1935. Clauses 3 and 4 would fall under entry No. 51 in List II and entry No. 13 in List III. The subject-matter of Part IV of the Bombay Finance Act, 1932, falls, inter alia, under entry No. 13 of List III of the Government of India Act, 1935. It contains provisions which are repugnant to the Indian Stamp Act, 1899, which is an existing Indian law relating to this entry. The provisions of clause 2 of the Bill inasmuch as they provide for continuance of these provisions in Part IV of the Bombay Finance Act, 1932, by one more year from 31st March 1941, and the provisions of clauses 3 and 4 of the Bill inasmuch as they provide for amendment of the Indian Stamp Act, 1899, are repugnant to the provisions of the said existing Indian law. The Bill will have therefore, to be reserved for the consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act, 1935.

3. The Bill was shown to the Advocate General and has been approved by him. The Advocate General also agrees with the remarks in paragraph 2 above.

Sd/-
1/3.

For, Remembrancer of Legal Affairs.

U.R. to F.D. No. 1847, dated the 1st March 1941.

M.V.V.
26/4.

IMMEDIATE. No.2354,

Legal Department,

Bombay Castle, 15th.March 1941.

From,

P.N.Moos, Esquire, I.C.S.,

Secretary to the Government of Bombay.

To,

The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Finance Act,1932.

Sir,

With reference to your telegram dated the 14th March 1941, addressed to the Finance Department, on the above subje I am directed to forward herewith a copy of the Bill to amend the Bombay Finance Act,1932, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Gover ment of India Act,1935.

2. None of the provisions of the Bill affects any specia Responsibility of the Governor under section 52(1) of the Government of India Act, 1935, or falls within the purview of clause (a),(b),(c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3. By Bombay Act I of 1940, the operation of the Bombay Finance Act,1932, was extended upto 31st March 1941. Bombay Act I of 1940 was reserved for the consideration of the Governor General with reference to paragraph 2 of the Proclamation and section 107(2) of the Government of India Act,1935. The assent of the Governor General to that Act was communicate to this Department by your letter No.201(17) dated the 20th March 1940. The present Bill purports to extend the operation of the Bombay Finance Act,1932, with certain amendments for a period of one year more i.e. until 31st March 1942.

4. The subject- matter of clause 2 of the Bill would fall under entries Nos. 1,42,48B and 51 in List II and entries Nos. 13 and 31 in List III in the Seventh Schedule ~~xx~~ to the Government of India Act, 1935. Clauses 3 and 4 would fall under entry No. 51 in List II and entry No. 13 in List III. The subject-matter of Part IV of the Bombay Finance Act, 1932, falls, inter alia, under entry No. 13 of List III of the Government of India Act, 1935. It contains provisions which are repugnant to the Indian Stamp Act, 1899, which is an existing Indian law relating to this entry. The provisions of clause 2 of the Bill, inasmuch as they provide for continuance of these provisions in Part IV of the Bombay Finance Act, 1932, by one more year from 31st March 1941, and the provisions of clauses 3 and 4 of the Bill inasmuch as they provide for amendment of the Indian Stamp Act, 1899, are repugnant to the provisions of the said existing Indian Law. The Bill will have, therefore, to be reserved for the consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act, 1935.

5. I also forward herewith six spare copies of the Bill, out of which five copies are for transmission to the Secretary to the Governor General (Public).

6. It is requested that His Excellency the Governor General may be moved to give his assent to the Bill before 31st March 1941 and to convey the assent by telegram as the old Act expires on that day and the new Act must come into force on that date.

I have the honour to be,
Sir,
Your most obedient servant,

Sd.
15/3.

Secretary to the Government of B'bay
Legal Department.

Through,

The Secretary to the Government of Bombay,

Finance Department.

M.V.V.
26-4.

Acts.

Publication of the Bombay Finance (Amendment) Act, 1941.

GOVERNMENT OF BOMBAY.

Legal Department.

Resolution No. 2747
Bombay Castle, 26th March 1941

Letter to the Secretary to the Governor, No. 2354, dated the 15th March 1941.

Letter from the Secretary to the Governor, No. 201(17), dated the 25th March 1941:-

"With reference to your letter No. 2354, dated the 15th. March 1941, I am directed to state that intimation has been received from the Secretary to the Governor-General (Public) that the Governor-General assented to the Bombay Finance (Amendment) Bill, 1941, on the 22nd March."

RESOLUTION:- The Law should be published as Bombay Act, No. IV of 1941, in the Bombay Government Gazette dated the 27th. March 1941.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devanagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Finance Department with reference to the Memorandum from that Department No. 9326-A, dated the 15th March 1941.

By order of the ..... of Bombay,

Sd/-

P. N. Moos,

Secretary to Governmen

To,

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 15 Gazette copies of the Act may be forwarded to the Legal Department).
The Finance Department,
The Oriental Translator to Government.
The Secretary to the Bombay Legislative Council.
The Secretary to the Bombay Legislative Assembly.
} With a Copy of the Act.

+With five extra copies.

M. V. V. 26-4.

Notification.

Finance Department.

Bombay Castle, March 1941.

No. In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the Bombay Finance(Amendment) Act, 1941 (Bom. IV of 1941) shall apply to the partially excluded areas in the Province of Bombay.

By order of the Governor of Bombay,

Secretary to Government.

M. V. V.
26/4.

Registered No. B-1

The

Bombay Government Gazette

PUBLISHED BY AUTHORITY.

THURSDAY, 27TH MARCH 1941.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

CONTENTS

	PAGES
BOMBAY ACT No. IV OF 1941—An Act to amend the Bombay Finance Act, 1932	46-52
BOMBAY ACT No. V OF 1941—An Act to amend the Bombay Rent Restriction Act, 1939	54

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by the Governor General on the 22nd March 1941 is hereby published for general information.

P. N. MOOS,

Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. IV OF 1941.

(First published, after having received the assent of the Governor General, in the "Bombay Government Gazette" on the 27th March 1941.)

An Act to amend the Bombay Finance Act, 1932.

WHEREAS it is expedient to amend the Bombay Finance Act, 1932, for the purposes hereinafter appearing;

And Whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, c. 2.

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Finance (Amendment) Act, 1941.

(*2*) It shall come into force on 31st March 1941.

Amendment of section 2 of Bom II of 1932.

2. In sub-section (*3*) of section 2 of the Bombay Finance Act, 1932 (hereinafter called "the said Act"), for the word "nine" the word "ten" shall be substituted.

Bom. II of 1932.

Amendment of section 15 of Bom. II of 1932.

3. In sub-section (*5*) of section 15 of the said Act,—

(1) after clause (*e*) the following new clause shall be inserted, namely:—

"(*ee*) in the entry in column 2 of Article 33 for the words 'as set forth in such instrument' the following shall be substituted, namely:—

'which is the subject-matter of the gift:

Provided that where an instrument of gift contains any provision for the revocation of the gift, the value of the property which is the subject-matter of the gift shall, for the purposes of duty, be determined as if no such provision were contained in the instrument.'"

(2) after clause (*f*), the following new clause shall be added, namely :—

" (*g*) in the entry in column 2 of Article 58,—

(i) the words 'as set forth in such settlement' shall be deleted ; and

(ii) after the words 'eight annas' the following shall be inserted, namely :—

'Provided further that where an instrument of settlement contains any provision for the revocation of the settlement, the amount or value of the property settled shall, for the purposes of duty, be determined as if no such provision were contained in the instrument.'

Amendment of section 18 of Bom. II of 1932.

4. In section 18 of the said Act,—

(1) in the entry in column 2 of Article 33, for the words " as set forth in such instrument ", the following shall be substituted, namely :—

" which is the subject-matter of the gift :

Provided that where an instrument of gift contains any provision for the revocation of the gift, the value of the property which is the subject-matter of the gift shall, for the purposes of duty, be determined as if no such provision were contained in the instrument ".

(2) in the entry in column 2 of Article 58,—

(i) the words " as set forth in such settlement " wherever they occur shall be deleted ; and

(ii) after the words " shall not exceed one rupee " the following shall be inserted, namely :—

" Provided further that where an instrument of settlement contains any provision for the revocation of the settlement, the amount or value of the property settled shall, for the purposes of duty, be determined as if no such provision were contained in the instrument."

Amendment of section 22 of Bom. II of 1932.

5. (*1*) In section 22 of the said Act for the word " ten " the word " eight " and for the word " five " the word " four " shall, respectively, be substituted.

(*2*) Nothing contained in this section shall affect the liability of any person to pay the Urban Immoveable Property tax in respect of any building or land or portion thereof for any period prior to the date of the coming into force of this Act at the rate at which it was leviable before such date.

Amendment of section 27 of Bom. II of 1932.

6. (*1*) In section 27 of the said Act, for sub-section (*1*) the following shall be substituted, namely :—

" (*1*) When any building or land assessed to Urban Immoveable Property tax is situated in the City of Bombay—

(*a*) if a drawback of the property tax is sanctioned in respect of such building or land under section 158 of the City of Bombay Municipal Act, 1888, on or after 1st October 1939, or

Bom. III of 1888.

(*b*) if a refund of the property tax is sanctioned in respect of such building or land or any portion thereof under section 175 of the City of Bombay Municipal Act, 1888, on or after 1st October 1939, or

Bom. III of 1888.

(*c*) if such building or any portion thereof is demolished or removed, otherwise than by order of the Municipal Commissioner for the City of Bombay on or after 1st April 1939 and notice in respect of such demolition or removal has been given to the Commissioner under section 153 of the City of Bombay Municipal Act, 1888,

Bom. III of 1888.

the Municipal Corporation of the City of Bombay shall remit or refund such portion of the Urban Immoveable Property tax, in such manner and subject to such conditions as may be prescribed.

(*1A*) When any building or land assessed to Urban Immoveable Property tax is situated in any Municipal area other than the City of

Bombay, if a remission or refund of the property tax is granted in respect of such building or land under sub-section (*2*) of section 69 of the Bombay District Municipal Act, 1901, or sub-section (*2*) of section 86 of the Bombay Municipal Boroughs Act, 1925, as the case may be, the Municipality concerned shall remit or refund such portion of the Urban Immoveable Property tax, in such manner and subject to such conditions as may be prescribed. Bom. III of 1901. Bom. XVIII of 1925.

(*1B*) When any building or land assessed to Urban Immoveable Property tax is situated in the Cantonment of Ahmedabad, if a remission or refund of the property tax is granted in respect of such building or land under section 75, 76 or 77 of the Cantonments Act, 1924, the Collector of Ahmedabad shall remit or refund such portion of the Urban Immoveable Property tax, in such manner and subject to such conditions as may be prescribed." II of 1924.

Amendments to have retrospective effect.

(*2*) The amendments made by this section in section 27 of the said Act shall be deemed to have been made and to have taken effect from the 1st day of April 1939.

Claims for remission or refund of the tax for any period before the commencement of this section not to be admitted if a refund of the tax for such period has been already granted.

(*3*) Notwithstanding anything contained in section 27 of the said Act as amended by this section, no claim for remission or refund of any portion of the Urban Immoveable Property tax, levied in respect of any building or land for any period prior to the date of the coming into force of this Act, shall be admitted, if remission or a refund of a portion of such tax levied for such period has been granted before such date.

Insertion of new section 28A in Bom. II of 1932.

7. After section 28 of the said Act, the following new section shall be inserted, namely :—

Application of Part VI to certain areas subject to certain modifications.

"28A. (*1*) The provisions of this Part shall continue to extend to any area specified in clause (iv) of section 20 notwithstanding such area ceasing to be a notified area, and being declared to be a municipal district under section 4

Bom. III of 1901. of the Bombay District Municipal Act, 1901, or a village under section 4 of the Bombay Village

Bom. VI of 1933. Panchayats Act, 1933.

(2) If such area is declared to be a municipal district, the provisions of this Part shall, after such declaration, apply to such area in such manner as they apply to any municipal area specified in clause (iii) of the said section 20.

(3) If such area is declared to be a village under section 4 of the Bombay Village Pan-

Bom. VI of 1933. chayats Act, 1933, the provisions of this Part shall after such declaration apply to such area subject to the following modifications :—

(i) in section 21—

(1) after sub-clause (*b*) in clause (1), the following new sub-clause shall be inserted, namely :—

' (*bb*) in villages the annual letting value determined in the manner prescribed ; '

(2) in clause (2)—

(*a*) after the word ' have ' where it occurs for the first time the words ' in the municipal areas and in the area of the Cantonment of Ahmedabad ' shall be inserted ; and

(*b*) after the words ' as the case may be ' the following shall be inserted, namely :—

' and in villages the same meanings as the words houses and lands have in the

Bom. VI of 1933. Bombay Village Panchayats Act, 1933.'

(3) after clause (5) the following new clause shall be inserted, namely :—

' (5A) " Panchayat " means a panchayat established under the Bombay Village Pan-

Bom. VI of 1933. chayats Act, 1933 ' ; and

(vii) in section 29 in sub-section (*2*), after the words 'following matters' the following new clause shall be inserted, namely :—

'(*aa*) the manner in which the annual letting value of buildings and lands in villages shall be determined ;'.

(*4*) If any portion of the Urban Immoveable Property tax due in respect of any building or land situate within any such notified area for any period prior to its ceasing to be a notified area has remained in arrears on the date on which such area ceased to be a notified area, such portion shall, notwithstanding anything contained in this Part or any law for the time being in force, be collected by the same authority by which and in the same manner in which such tax due in respect of the said building or land after such date may be collected."

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by the Governor General on the 19th March 1941 is hereby published for general information.

P. N. MOOS,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. V OF 1941.

[First published, after having received the assent of the Governor General in the "Bombay Government Gazette" on the 27th March 1941.]

An Act to amend the Bombay Rent Restriction Act, 1939.

WHEREAS it is expedient to amend the Bombay Rent Restriction Act, 1939, for the purpose hereinafter appearing;

And whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Rent Restriction (Amendment) Act, 1941.

(*2*) It shall come into force on 31st March 1941.

Amendment of section 1 of Bom. XVI of 1939.

2. In sub-section (*3*) of section 1 of the Bombay Rent Restriction Act, 1939, hereinafter called the said Act, for the figures "1941" the figures "1942" shall be substituted.

Bom. XVI 1939.

Insertion of a new section 15A in Bom. XVI of 1939.

3. After section 15 of the said Act, the following new section shall be inserted, namely:—

Application of the Act to certain notified areas declared to be municipal districts or villages.

"15A. The provisions of this Act shall continue to extend to any area specified in clause (iv) of sub-section (*2*) of section 1, notwithstanding such area ceasing to be a notified area and being declared to be a municipal district under section 4 of the Bombay District Municipal Act, 1901, or a village under section 4 of the Bombay Village Panchayats Act, 1933."

Bom. III of 1901.

Bom. VI of 1933.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.